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Leak blame abounds, Congress told

By Ken Ward Jr.

CHARLESTON, W.Va. --Problems with a variety of federal programs -- from drinking-water laws to emergency-response planning to toxic-chemical regulations -- contributed to the Jan. 9 Elk River chemical leak, lawmakers in Washington were told Tuesday.

Separate congressional committees heard testimony about threats to public drinking-water supplies and about longstanding weaknesses in the federal law that governs toxic-chemical safety.

"The West Virginia incident highlights the many holes we have in current federal environmental laws," said Erik Olson, senior director for health and food at the Natural Resources Defense Council.

Olson was among those who testified before an Environment and Public Works subcommittee, where legislation is being considered to toughen chemical storage-tank rules and rewrite the troubled Toxic Substances Control Act, or TSCA.

In his testimony, he praised the chemical tank bill proposed by committee Chairwoman Barbara Boxer, D-Calif., and Sens. Jay Rockefeller and Joe Manchin, both D-W.Va.

However, Olson joined Boxer in expressing concern about the TSCA reform legislation that Manchin has been trying to work out with Senate Republicans and which Manchin lauds as a compromise.

Also in the Senate, West Virginia political leaders turned out in force to testify about the chemical leak.

Sen. Jay Rockefeller, D-W.Va., for example, made it clear that he believes one of the problems that led to the Freedom Industries leak is a long-time lack of tough environmental enforcement by the state.

"Industry does it all the time and gets away with it," Rockefeller said. "They will cut corners and they will get away with it. Regulation is soft in West Virginia. It's always been soft."

Manchin, speaking in an interview after appearing before the committee, said the chemical leak hasn't made him rethink his harsh criticism of the Obama administration's policies on coal-mining issues. Manchin said some people misunderstood his comments to The New York Times, in which he said West Virginia has always done the nation's "heavy lifting" by mining coal and making chemicals.

"We've always done the hard work," Manchin said. "But that's not an excuse for saying you have to throw caution to the wind on the environment or on safety."

"The bottom line is, 'Why do we have to have these disasters and tragedies?' I can't answer that for you," Manchin said. "It's a shame."

Reps. Shelley Moore Capito, R-W.Va., and Nick Rahall, D-W.Va., and West Virginia Secretary of State Natalie Tennant also testified at Tuesday's hearing.

In a House subcommittee hearing, NRDC senior scientist Jennifer Sass agreed that the West Virginia leak highlighted the need to re-examine and carefully reform the nation's toxic-chemical laws.

"It was surprising to many people -- and wholly unacceptable -- that thousands of gallons of a hazardous chemical could be stored and spill upstream of a drinking-water intake -- and that there was essentially no useful information available for the public, drinking-water system operators, state or federal public-health officials or medical professionals and first responders, as to the safety or potential health and environmental effects of the substance," Sass told a House Energy and Commerce subcommittee.

Sass said, though, that the situation is even worse.

"We are routinely exposed to hundreds, even thousands, of chemicals in our daily lives -- even before we are born -- in an infinite number of combinations and mixtures -- and for most chemicals, we do not have the information necessary to know whether or not those chemicals are safe," Sass said.

In Senate testimony, West Virginia Department of Environmental Protection Secretary Randy Huffman said his agency has identified 600 facilities housing 3,500 above-ground chemical-storage tanks. As many as 100 of those facilities -- including perhaps 1,000 tanks -- "may exist within an area that could impact a public drinking-water source," Huffman said.

"Many of these tanks contain petroleum or other materials that may be regulated under different programs, in which case, they would not pose the risk that the Freedom Industries site and others like it pose," Huffman said, "but these numbers clearly raise concerns that this incident could be repeated in other areas of the state."

